

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
HOFFMAN INTERNATIONAL, INC,

Plaintiff,

-against-

TEREX USA, LLC,

Defendant.

ANALISA TORRES, District Judge:

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 11/10/2020

20 Civ. 8461 (AT)

**ORDER**

The Court has reviewed Defendant's pre-motion letter requesting permission to file a motion to dismiss or, in the alternative, transfer to the Western District of Oklahoma, ECF No. 9, and Plaintiff's letter in reply, ECF No. 16. Defendant bases its request for a motion to dismiss or transfer on a case between the same parties currently pending in the Western District of Oklahoma (the "Oklahoma matter"). ECF No. 9 at 2–3. Plaintiff does not appear to dispute the cases are related. ECF No. 16 at 2.

Both Plaintiff and Defendant have filed motions regarding venue in the Oklahoma matter: a motion to transfer to the Southern District of New York and a motion to retain jurisdiction, respectively. *Id.*; *Terex USA LLC v. Hoffman Int'l Inc.* No. 20 Civ. 941 (W.D. Okla. 2020), ECF Nos. 9, 14. It is a "bright line rule" in this District that where two duplicative cases are pending in different jurisdictions, the court in which the first-filed action was brought determines which forum will hear the case. *Congregation Shearith Israel v. Congregation Jeshuat Israel*, 983 F. Supp. 2d 420, 422 (S.D.N.Y. 2014). The Oklahoma matter was filed on September 17, 2020, ECF No. 9 at 2, three weeks before the case was filed in this District on October 9, 2020, ECF No. 1. Therefore, the Western District of Oklahoma should determine which forum should decide these cases.

For that reason, Defendant's pre-motion letter request to file a motion to dismiss or transfer is DENIED without prejudice, pending resolution of the motions to transfer and retain jurisdiction in the Western District of Oklahoma. By **December 10, 2020**, the parties shall submit a status letter updating the Court on the status of the motions in the Western District of Oklahoma.

SO ORDERED.

Dated: November 10, 2020  
New York, New York



ANALISA TORRES  
United States District Judge